

Notice of Allowability

Application No.

10/798,176

Applicant(s)

WINK, DWAYNE

Examiner

Michael P. Ferguson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to examiner's amendment 26 October 2005.
2. ☒ The allowed claim(s) is/are 1-13, 15-18, 21-28 and 32-37.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 03/11/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 10/26/05
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephen S. Mosher on October 26, 2005.

The application has been amended as follows:

In the abstract, in line 1 after "safety fencing" deleted "is disclosed, comprising" and replaced with --comprises--.

In claim 1, in line 15 after "width of the safety" deleted "fence" and replaced with --fencing--.

In claim 8, in line 2 after "width of the safety" deleted "fence" and replaced with --fencing--.

Canceled claim 14.

In claim 15, in line 2 after "width of the safety" deleted "fence" and replaced with --fencing--.

Canceled claims 19 and 20.

In claim 21, in line 2 after "thickness of the safety" deleted "fence" and replaced with --fencing--.

In claim 22, in line 2 after "width of the safety" deleted "fence" and replaced with --fencing--.

Art Unit: 3679

In claim 25, in line 1 after "wherein the" deleted "latching device" and replaced with --latch--.

In claim 26, in line 1 after "wherein the" deleted "latching device" and replaced with --latch--.

In claim 26, in line 18 after "clamp the safety" deleted "fence" and replaced with --fencing--.

Canceled claims 29-31.

In claim 37, in line 20 after "clamp the safety" deleted "fence" and replaced with --fencing--.

2. The following is an examiner's statement of reasons for allowance:

As to claim 1, Campbell (US 1,226,465) discloses the claimed reusable fence post with the exception of comprising an elongated hollow post having a predetermined interior cross section, and closed at a bottom end except for an opening of predetermined shape in the bottom end centered along the first longitudinal axis; and a stake extending downward a second predetermined length along a second longitudinal axis from and attached to a lower end of a sliding hammer, wherein the hammer slides freely within the predetermined length of the hollow post along the first longitudinal axis and wherein the stake extends downward through the opening in and outward from the bottom end of the hollow post and wherein a lower stop collar is secured orthogonal to and around the outward extending portion of the stake approximately bisecting the second predetermined length of the stake.

Matson (US 3,519,234) discloses a sign comprising a stake extending downward a predetermined length along a longitudinal axis from and attached to a lower end of a sliding hammer, wherein the hammer slides freely within a predetermined length of a hollow post along a first longitudinal axis and wherein the stake extends downward through an opening in and outward from the bottom end of the hollow post and wherein a lower stop collar is secured orthogonal to and around the outward extending portion of the stake approximately bisecting the second predetermined length of the stake.

There is no teaching or suggestion, absent the applicant's own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the reusable fence post as disclosed by Campbell to have the above mentioned elemental features.

As to claim 32, Campbell discloses the claimed reusable fence post with the exception of comprising an elongated hollow post having a predetermined interior cross section, closed at a top end and closed at a bottom end except for an opening of predetermined shape in the bottom end centered along the first longitudinal axis; and a stake extending downward a second predetermined length along a second longitudinal axis from a slide hammer, wherein the slide hammer slides freely within the predetermined length of the hollow post along the first longitudinal axis and wherein the stake extends downward and outward through the opening in the bottom end of the hollow post and wherein a lower stop plate is secured orthogonal to and around the outward extending portion of the stake approximately bisecting the second predetermined length of the stake.

Matson discloses a sign comprising a stake extending downward a predetermined length along a longitudinal axis from a slide hammer, wherein the slide hammer slides freely within a predetermined length of a hollow post along a first longitudinal axis and wherein the stake extends downward and outward through an opening in the bottom end of the hollow post and wherein a lower stop plate is secured orthogonal to and around the outward extending portion of the stake approximately bisecting the predetermined length of the stake.

There is no teaching or suggestion, absent the applicant's own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the reusable fence post as disclosed by Campbell to have the above mentioned elemental features.

As to claim 33, Campbell discloses the claimed reusable fence post with the exception of comprising an elongated post having at least first and second pipe sections having a predetermined inside diameter attached to a second side of the elongated post and disposed lengthwise along the first longitudinal axis of the elongated fence post between a midpoint of the predetermined length and a bottom end of the predetermined length of the elongated post; and a stake formed of solid metal rod and having a cap formed of a third pipe section having the predetermined diameter attached over an upper end of the stake, the stake extending downward a second predetermined length along a second longitudinal axis from the cap wherein the stake passes through and moves freely within the at least first and second pipe sections and extends downward and outward through the lower one of the at least first and second pipe sections and

Art Unit: 3679

wherein a lower stop plate is secured orthogonal to and around the outward extending portion of the stake approximately bisecting the second predetermined length of the stake.

Matson discloses a sign comprising a stake formed of solid metal rod and having a cap formed of a pipe section having a predetermined diameter attached over an upper end of the stake, the stake extending downward a predetermined length along a longitudinal axis from the cap wherein a lower stop plate is secured orthogonal to and around an outward extending portion of the stake approximately bisecting the predetermined length of the stake.

There is no teaching or suggestion, absent the applicant's own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the reusable fence post as disclosed by Campbell to have the above mentioned elemental features.

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to fence posts:

Pracht (US 1,450,644), Carlson (US 1,582,574) and Emory, III (US 5,660,505) are cited for pertaining to posts comprising an elongated jaw member hinged at the lower end of the post.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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10/26/05



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